

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:09-CV-422-FDW-DSC**

LISA HOMAN,)	
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court on Plaintiff's Motion for Summary Judgment (Doc. No. 13), Defendant Commissioner's Motion for Summary Judgment (Doc. No. 17) and the Magistrate Judge's Memorandum and Recommendation ("M&R") (Doc. No. 19). For the reasons that follow, the Court ACCEPTS and ADOPTS the M&R (Doc. No. 19), GRANTS the Plaintiff's Motion for Summary Judgment (Doc. No. 13), and DENIES Defendant Commissioner's Motion for Summary Judgment (Doc. No. 17). The Commissioner's decision is REVERSED and this matter is REMANDED for a new hearing consistent with the Magistrate Judge's M&R.

I. STANDARD OF REVIEW

The Federal Magistrate Act states that "a district court shall make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); Camby v. Davis, 718 F.2d 198, 200 (4th Cir.1983). "By contrast, in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). De novo review is also not required "when a party makes general or

conclusory objections that do not direct the court to a specific error in the magistrate judge's proposed findings and recommendations." Id. The district court need not review issues that are beyond the subject of an objection. Thomas v. Arn, 474 U.S. 140, 149 (1985); Camby, 718 F.2d at 200. Upon careful review of the record, the district court may accept, reject, or modify the findings or recommendations made by the magistrate judge. Id.

II. DISCUSSION

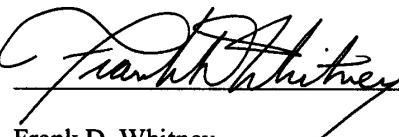
Federal Rule of Civil Procedure 72(b) allows a party fourteen (14) days to file specific written objections to a Magistrate Judge's proposed findings and recommendations. Fed. R. Civ. P. 72(b)(2). The parties were notified that objections to the M&R must be filed within this time frame. Considering no objections were filed and after a review of the record in this case, the Court agrees with the Magistrate Judge's recommendations.

III. CONCLUSION

IT IS THEREFORE ORDERED that the Memorandum and Recommendation (Doc. No. 19) is hereby ACCEPTED and ADOPTED, the Plaintiff's Motion for Summary Judgment (Doc. No. 13) is GRANTED, and the Defendant Commissioner's Motion for Summary Judgment (Doc. No. 17) is DENIED. The Commissioner's decision is REVERSED, and the matter is REMANDED for a new hearing consistent with the Magistrate Judge's M&R.

IT IS SO ORDERED.

Signed: June 18, 2010



Frank D. Whitney
United States District Judge

